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Ms. Cynthia L. Johnson
Director
Cash Management Policy and Planning Division
Financial Management Service
U.S. Department of the Treasury
Room 420
401 14th Street, S.W.
Washington, D.C. 20227

Re: Comments on the Proposed Rule for Management of Federal Agency Disbursements

Dear Ms. Johnson:

These comments respond to the proposed rule to implement Chapter 10 of the Omnibus Consolidated Appropriations Act of 1996, commonly known as EFT '99, published at 62 Fed. Reg. 48713 on Sept. 16, 1997. Consumers Union, publisher of *Consumer Reports* and an active advocate for consumers' interest in financial services, has concerns regarding issues raised in the proposed rule. Some of these concerns were also raised in comments submitted last year on the interim rule.

General Comments

We are hopeful that the new system of disbursing federal funds electronically will help promote our long-standing goal of bringing more consumers into the banking system by making the pricing and other terms associated with a bank account, including the availability of branch offices in low income neighborhoods, more appropriate for lower-income consumers. We also support the Department's goal of encouraging federally insured institutions to offer "no frills" accounts at low prices and under appropriate terms.

Towards these efforts, we encourage the Department to review a new study, *Beyond Cash-and Carry: Financial Savings, Financial Services, and Low Income Households in Two Communities*, prepared by John Caskey for the Consumer Federation of America (December 1997). The study notes that there may be resistance in efforts to persuade benefits recipients without accounts to open deposit accounts. Moreover, the study states that if the cost for maintaining the accounts "is placed on the recipients, many will resent

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being forced into a system that some will find confusing and more costly or less convenient than their current arrangements.”

The study provides some suggestions to increase participation in the financial services system, including the creation of an effective household budgeting education effort which might enable many families to build at least modest financial savings, and the development of accounts intended to meet the specific needs of low-income households with small balances. These insights into the financial dealings and preferences of lower-income households may provide some direction in how issues related to implementing EFT '99 ought to be addressed.

Consumer Protections

Regulations on federal payments should include certain account restrictions which would apply regardless of the type of entity providing the funds disbursement service – including financial institutions, non-financial institutions, or the federal government or its agents, including the following:

- To prevent pricing abuses, we urge that the Department place limitations on those serving recipients to ensure that any fees paid by a recipient are reasonable, and that those fees are limited to those determined by the Secretary to be appropriate to the services provided.
- The Department should take steps to minimize the risk that recipients will be faced with coercive practices, or fraud or deception in selecting or maintaining accounts.
- All regulatory obligations ordinarily associated with other kinds of electronic funds transfers should also apply to all federal payments made to recipients, including the protections provided by Regulation E.
- We continue to urge that regulations prescribe that the account not be tied, directly or indirectly, to the purchase by the recipient of other products or services offered by the financial institution or non-financial institution with which a relationship has been established.

Providing Financial Services

The proposal states that it will have the effect that all Federal payments will be made to an account at a financial institution. Yet, the Department does not believe that financial institutions should be required to provide basic accounts at a reasonable price to individuals without accounts. One proposed option to serve those without accounts is to

engage financial institutions to act as the Department's agents to disburse the funds, establish recipients' accounts, and crediting the Federal payment to the account. Under this proposal, other functions may be performed by non-financial institutions working in partnership with the financial agent.

We are concerned that the proposed rule is otherwise silent on the role that non-financial institutions may play in the delivery of Federal payments to recipients with bank accounts and the relationship between non-financial institutions and such recipients. Partnerships between banks and other non-financial institutions are already emerging. In some instances funds are deposited into a bank, but the customer goes to a check casher to receive the payment. The Department should be careful that it does not facilitate the business of entities with a history of unfair business practices, including the practice of servicing low-income consumers only at very high prices. Furthermore, such accounts should provide services at a reasonable cost and all consumer protections applicable to traditional accounts should apply. Non-financial institutions that provide services through partnerships with financial agents should be required to meet some level of safety and soundness to ensure a recipients funds are protected. Likewise, the financial agent should be liable for the actions of its non-financial or other partners.

As stated in our comments on the interim rule, this concern is a result of our observation that many entities presently servicing the needs of the unbanked have exploited and continue to exploit their customers. We describe some of the types of abuses that can arise in *The High Cost of Check Cashing*, a report published by our West Coast Regional Office, and *Your Neighborhood Banks: High Cost Loans for Low Income Borrowers*, a report about pawn shops and check cashers prepared by our Southwest Regional Office. These reports make it clear that it is essential for the Department establish clear policy against allowing businesses that have a history of unfair or deceptive practices, including a history of serving low income consumers only at very high prices, from providing services to recipients of federal payments.

Consumers Union continues to believe that the United States Postal Service, which has offices conveniently located to many potential recipients, should be encouraged to serve as an authorized payment agent. We continue to urge the Department to meet with Postal Service officials to explore this possibility. Additionally, we believe that it is worthwhile to explore the possibility of other entities to act as agents, including senior citizen or community centers, or other specific organizations.

Consumer Education

It is critical that recipients receive adequate information regarding financial service options. Consumers Union strongly supports a widespread public information campaign to educate recipients on financial services. Service providers should be required to disclose clearly the terms that apply to their funds disbursement activities. Such materials should be prepared in a user-friendly format.

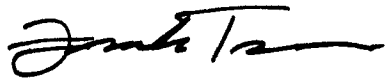
Model Accounts

Consumers Union looks forward to commenting on future proposals on specific characteristics of the accounts that will be made available, including terms, conditions and attributes of the account to be offered. A preliminary look, however, indicates that any account established should be required to provide an unlimited amount of point of sale transactions at no charge, free statements, and at least four free cash withdrawals per month. Multiple fees should be discouraged in order to achieve pricing simplicity to allow for easy comparison shopping.

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Consumers Union appreciates the opportunity to comment on this important matter. We look forward to working with you in the months ahead to ensure that the implementation of Public Law 104-134 is carried out in a manner that gives federal payment recipients maximum choice and convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank C. Torres, III". The signature is fluid and cursive, with a long horizontal stroke at the end.

Frank C. Torres, III
Legislative Counsel